

AMENDED IN SENATE MARCH 30, 2004

SENATE BILL

No. 1569

Introduced by Senator Dunn

February 19, 2004

~~An act to amend Section 1387 of the Health and Safety Code, relating to health care. An act to add Section 1393.3 to the Health and Safety Code, relating to health care service plans.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1569, as amended, Dunn. ~~Health care service plans~~ *Aggrieved providers: remedies.*

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, ~~and provides that a person who violates the act's provisions is liable for a civil penalty to be recovered in a civil action.~~ *The act requires that a contract between a plan and a provider contain provisions requiring a fast, fair, and cost-effective dispute resolution mechanism and that reimbursement of a complete claim, which is neither contested nor denied, be made within a designated time period.*

This bill would ~~make a nonsubstantive change to these provisions~~ *authorize an aggrieved provider, as defined, to bring an action against a health care service plan that violates a provision of the act relating to contracting or claims processing or payment.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 1387 of the Health and Safety Code is~~

SECTION 1. *Section 1393.3 is added to the Health and Safety Code, to read:*

1393.3. (a) *If a health care service plan violates any provision of this chapter relating to contracting or claims processing or payment, an aggrieved provider may bring an action against that plan to recover damages and to obtain other appropriate relief, including costs and attorney's fees. The remedies under this section shall be in addition to, and not in derogation of, all other rights and remedies that an aggrieved provider may have under any other law.*

(b) *For the purposes of this section, an "aggrieved provider" means a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or an osteopathic physician and surgeon licensed pursuant to the Osteopathic Initiative Act or a lawfully organized group of those physicians and surgeons or osteopathic physicians and surgeons who meets one of the following conditions:*

(1) *Contracts directly with the plan alleged to be in violation of this chapter.*

(2) *Contracts directly with an entity that contracts directly with the plan, the aggrieved provider has provided services to the plan's enrollees on or after January 1, 2005, and the entity has either become insolvent or ceased paying all claims for a period of six months.*

(3) *Has provided emergency medical services covered under an enrollee's plan contract to the enrollee of a plan alleged to be in violation of this chapter and has exhausted all administrative remedies required under this chapter.*

(c) *An aggrieved provider who meets the conditions described in paragraph (2) or (3) of subdivision (b) may bring an action against the plan alleged to have violated this chapter only with respect to payment for the disputed claim.*

(d) *If the aggrieved provider is a shareholder, employee, partner, or contractor of a lawfully organized group practice and does not contract directly with the health care service plan or the entity that directly contracts with the health care service plan, the*

1 *action may be filed only by the group practice and not by its*
2 *shareholders, employees, partners, or contractors.*

3 *(e) Nothing in this section shall be construed to revise or*
4 *expand the scope of practice of a provider or to revise or expand*
5 *the types of providers who are authorized to submit claims to, and*
6 *contract with, a health care service plan.*

7 ~~amended to read:~~

8 ~~1387. (a) Any person who violates any provision of this~~
9 ~~chapter, or who violates any rule or order adopted or issued~~
10 ~~pursuant to this chapter, shall be liable for a civil penalty up to two~~
11 ~~thousand five hundred dollars (\$2,500) for each violation, which~~
12 ~~shall be assessed and recovered in a civil action brought in the~~
13 ~~name of the people of the State of California by the director in any~~
14 ~~court of competent jurisdiction.~~

15 ~~(b) As applied to the civil penalties for acts in violation of this~~
16 ~~chapter, the remedies provided by this section and by other~~
17 ~~sections of this chapter are not exclusive, and may be sought and~~
18 ~~employed in any combination to enforce this chapter.~~

19 ~~(c) No action shall be maintained to enforce any liability~~
20 ~~created under subdivision (a), unless brought before the expiration~~
21 ~~of four years after the act or transaction constituting the violation.~~
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